



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Doc. No. AMS-FV-12-0076; FV13-932-1 FIR]

Olives Grown in California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that decreased the assessment rate established for the California Olive Committee (Committee) for the 2013 and subsequent fiscal years from \$31.32 to \$21.16 per ton of assessable olives handled. The Committee locally administers the marketing order for olives grown in California. Assessments upon olive handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal year begins January 1 and ends December 31. A decrease in the assessment rate was necessary because the 2012-13 crop was larger than last year's crop and the previous assessment rate would generate excess revenue.

DATES: Effective [INSERT DATE 1 DAY AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Jerry L. Simmons or Martin Engeler, California Marketing Field Office, Marketing Order

and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (559) 487-5901, Fax: (559) 487-5906, or E-mail: Jerry.Simmons@ams.usda.gov or Martin.Engeler@ams.usda.gov. Small businesses may obtain information on complying with this and other marketing order regulations by viewing a guide at the following website: <http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide>; or by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: Jeffrey.Smutny@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 148 and Order No. 932, both as amended (7 CFR Part 932), regulating the handling of olives grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

Under the order, California olive handlers are subject to assessments, which provide funds to administer the order. Assessment rates issued under the order are intended to be

applicable to all assessable California olives for the entire fiscal period, and continue indefinitely until amended, suspended, or terminated. The Committee's fiscal period begins on January 1 and ends on December 31.

In an interim rule published in the **Federal Register** on April 29, 2013, and effective on April 30, 2013, (78 FR 24979, Doc. No. AMS-FV-12-0076, FV13-932-1 IR), § 932.230 was amended by decreasing the assessment rate established for California olives for the 2013 and subsequent fiscal years from \$31.32 to \$21.16 per ton of assessable olives handled. The decrease in the assessment rate was necessary because the 2012-13 crop was larger than last year's crop and the previous assessment rate would generate excess revenue.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued

pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 1,000 producers of California olives in the production area and two handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration as those having annual receipts less than \$750,000 and small agricultural service firms are defined as those whose annual receipts are less than \$7,000,000 (13 CFR 121.201).

Based upon information from the industry and the California Agricultural Statistics Service, the average grower price for 2012 was approximately \$1,150 per ton of assessable olives and total grower deliveries were 67,355 tons. Based on production, producer prices, and the total number of California olive producers, the average annual producer revenue is less than \$750,000. Thus, the majority of olive producers may be classified as small entities. Neither of the handlers may be classified as small entities.

This rule continues in effect the action that decreased the assessment rate established for the Committee and collected from handlers for the 2013 and subsequent fiscal years from \$31.32 to \$21.16 per ton of assessable olives, a decrease of \$10.16. The Committee unanimously recommended

2013 expenditures of \$1,289,198. The quantity of assessable California olives for the 2012-13 season is 67,355 tons. However, the quantity of olives actually assessed is expected to be slightly lower because some of the tonnage may be diverted by handlers to exempt outlets on which assessments are not paid. The \$21.16 rate should provide an assessment income adequate to meet this year's expenses.

Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers.

In addition, the Committee's meeting was widely publicized throughout the California olive industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the December 11, 2012, meeting was a public meeting. All entities, both large and small, were able to express views on this issue.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581-0178, Generic Vegetable Crops. No changes in those requirements as a result of this action are anticipated. Should any

changes become necessary, they would be submitted to OMB for approval.

This action imposes no additional reporting or recordkeeping requirements on either small or large California olive handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Comments on the interim rule were required to be received on or before June 28, 2013. No comments were received. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to:

<http://www.regulations.gov/#!docketDetail;D=AMS-FV-12-0076>

This action also affirms information contained in the interim rule concerning Executive Orders 12866 and 12988, and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (78 FR 24979,

April 29, 2013) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

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Accordingly, the interim rule amending 7 CFR Part 932, which was published at 78 FR 24979 on April 29, 2013, is adopted as a final rule, without change.

Dated: July 24, 2013

Rex A. Barnes
Associate Administrator
Agricultural Marketing Service

Billing Code: 3410-02 P

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